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9
10 **UNITED STATES DISTRICT COURT**
11
12 **EASTERN DISTRICT OF CALIFORNIA**
13

14 AZMY ABDELRAAUF EL-GHAZALY,

No.

15 Petitioner-Plaintiff,

16 v.

17 CHRISTOPHER CHESTNUT, Warden of
18 California City Detention Center;

19 SERGIO ALBARRAN, Acting Director, San
20 Francisco Field Office, U.S. Immigration and
21 Customs Enforcement;

22 TODD LYONS, Acting Director, U.S. Immigration
23 and Customs Enforcement;

24 KRISTI NOEM, Secretary of the U.S. Department
25 of Homeland Security,

26 PAM BONDI, Attorney General of the United
27 States,

28 Respondents-Defendants.

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

INTRODUCTION

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2 1. Petitioner-Plaintiff, Azmy Abdelraauf El-Ghazaly (“Mr. El-Ghazaly,”) by and through
3 his undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for
4 declaratory and injunctive relief to compel his immediate release from the immigration detention
5 center where he has been held by Immigration and Customs Enforcement (“ICE”) since being
6 unlawfully detained on October 14, 2025, without at any point having been provided a due process
7 hearing to determine whether his detention is justified.
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9 2. Mr. El-Ghazaly is a stateless Palestinian who has lived in the United States more than 35
10 years. He has been reporting to ICE on a monthly, then yearly, basis on his Order of Supervision
11 (“OSUP”), which was issued by ICE more than 23 years ago, after a petition for habeas corpus was
12 filed on his behalf. As was determined 23 years ago, Mr. El-Ghazaly cannot be deported to Saudi
13 Arabia, Egypt, Israel, Jordan, or Palestine, as he is not a citizen of those countries and they have
14 declined to issue travel documents to him. Thus, Mr. El-Ghazaly’s detention is both unconstitutional
15 because it is indefinite, and illegal because he was not provided any pre-deprivation hearing before
16 his recent detention by ICE.
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18 3. Mr. El-Ghazaly has also never been ordered removed to any third country or notified of
19 such potential removal. Given the Supreme Court of the United States’ decision in *U.S. Department*
20 *of Homeland Security, et al. v. D.V.D., et al.*, No. 24A1153, 2025 WL 1732103 (June 23, 2025),
21 which stayed the nationwide injunction that had precluded Respondents from removing noncitizens
22 to third countries without notice and an opportunity to seek fear-based relief, ICE appears
23 emboldened and intent to implement its campaign to send noncitizens to far corners of the planet—
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1 places they have absolutely no connection to whatsoever¹—in violation of clear statutory obligations
2 set forth in the Immigration and Nationality Act (“INA”), binding treaty, and due process. In the
3 absence of a nationwide injunction, individual lawsuits like this one are the only method to challenge
4 the illegal third-country removals.

5
6 4. Mr. El-Ghazaly requests that this Court grant him a writ of habeas corpus, ordering
7 Respondents-Defendants to immediately release him from custody, and order that Mr. El-Ghazaly
8 cannot be removed to any third country without first being provided constitutionally-compliant
9 procedures.

10 CUSTODY

11 5. Petitioner is currently detained by ICE at the California City Detention Facility in
12 California City, California, where he was transferred after being arrested by ICE officers during a
13 routine ICE check-in in Dallas, Texas. Prior to and since being arrested by ICE, Petitioner has not
14 been provided with a constitutionally compliant hearing to assess whether his detention is warranted.
15

16 JURISDICTION

17 6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas
18 corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–
19 02 (Declaratory Judgment Act, and article I, § 9, cl. 2 of the United States Constitution (the
20 Suspension Clause), as Mr. El-Ghazaly is presently in custody under the authority of the United
21 States and challenges his detention as in violation of the Constitution, laws, or treaties of the United
22 States.
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24
25 ¹ CBS News, “Politics Supreme Court lets Trump administration resume deportations to third
26 countries without notice for now” (June 24, 2025), available at:
27 [https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/)
28 [third-countries-without-notice/](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/).

VENUE

7. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents-Defendants are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of California; and because Mr. El-Ghazaly is in custody at the California City Detention Facility, which is under the jurisdiction of this Court.

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents-Defendants “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show is issued, the Court must require Respondents-Defendants to file a return “within *three* days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

EXHAUSTION

10. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th

1 Cir. 2004) (citation and quotation marks omitted)). Petitioner-Plaintiff asserts that exhaustion is
2 satisfied as there is no administrative jurisdiction over this detention status because he already has a
3 final order of removal.

4 11. No statutory exhaustion requirements apply to Mr. El-Ghazaly's claim of unlawful
5 custody in violation of his due process rights, and there are no administrative remedies that he needs
6 to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995)
7 (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review"
8 constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000)
9 (same).

10
11 **PARTIES**

12 12. Petitioner-Plaintiff, Mr. El-Ghazaly, is a stateless Palestinian who entered the U.S. on a
13 tourist visa, using an Egyptian travel document, on June 25, 1990. On October 8, 1997, he was
14 granted voluntary departure by an Immigration Judge ("IJ"), with an alternative order of removal to
15 Saudi Arabia, which went into effect when he failed to depart. Since Saudi Arabia does not
16 recognize Mr. El-Ghazaly as a citizen, nor will issue a passport to him, Mr. El-Ghazaly is a stateless
17 individual without a travel document. Despite his cooperation in attempting to obtain travel
18 documents, Mr. El-Ghazaly has not been successful. He is currently detained at the California City
19 Detention Facility.
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21 13. Respondent Christopher Chestnut is the warden at the California City Detention
22 Facility in California City, California, where Mr. El-Ghazaly is currently detained. He is thus Mr. El-
23 Ghazaly's immediate custodian. He is sued in his official capacity.
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25 14. Respondent Sergio Albarran is the Acting Director of ICE's San Francisco Field
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1 Office, Enforcement and Removal Operations, which is the ICE Field Office with jurisdiction and
2 responsibility over the California City Detention Facility. Defendant Albarran is responsible for
3 ICE's policies, practices, and procedures, including those relating to the detention and detention
4 conditions of immigrants. Defendant Albarran is a legal custodian of Mr. El-Ghazaly and is sued in
5 his official capacity.
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7 15. Respondent-Defendant Todd M. Lyons is the Acting Director of ICE and is named
8 in his official capacity. As the Director of ICE, he is responsible for the administration and
9 enforcement of the immigration laws of the United States, including the removal of noncitizens. In
10 his official capacity, he is the legal custodian of Mr. El-Ghazaly.

11 16. Respondent-Defendant Kristi Noem is the Secretary of the Department of Homeland
12 Security ("DHS") and is named in her official capacity. DHS is the federal agency encompassing
13 ICE, which is responsible for the administration and enforcement of the INA and all other laws
14 relating to the immigration of noncitizens. In her capacity as Secretary, Respondent-Defendant
15 Noem has responsibility for the administration and enforcement of the immigration and
16 naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No.
17 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). In that capacity and through her
18 agents, Respondent-Defendant Noem has broad authority over, and responsibility for, the operation
19 and enforcement of the immigration laws and is legally responsible for pursuing any effort to detain
20 and remove Mr. El-Ghazaly. Respondent-Defendant Noem is sued in her official capacity.
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22 17. Respondent-Defendant Pam Bondi is the Attorney General of the United States and
23 the most senior official at the Department of Justice and is named in her official capacity. In that
24 capacity and through her agents, she is responsible for overseeing the implementation and
25 enforcement of the federal immigration laws. The Attorney General delegates this responsibility to
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1 the Executive Office for Immigration Review, which administers the immigration courts and the
2 BIA.

3 **STATEMENT OF FACTS**

4 18. Mr. El-Ghazaly was born  in the Gaza Strip. At that time, although
5 Egypt administered Gaza, it never annexed Gaza and did not confer its citizenship on the Palestinian
6 population. As a result, individuals born at that time, like Mr. El-Ghazaly, are considered stateless
7 Palestinians, typically relying on Egyptian-issued Palestinian travel documents that functioned only
8 as identity and movement papers, not nationality. After the 1967 Six-Day War, Israel took control of
9 Gaza, and Palestinians remained without a sovereign citizenship, instead becoming part of the
10 Israeli-maintained Palestinian population registry.

11
12 19. When he was just six months old, Mr. El-Ghazaly moved with his family to Saudi
13 Arabia, where he spent the next twenty-four years.

14
15 20. On June 25, 1990, Mr. El-Ghazaly entered the U.S. on a tourist visa, using an Egyptian
16 travel document. The asylum office declined to grant his asylum application and referred him to the
17 immigration court, with the issuance of an Order to Show Cause. On October 8, 1997, he was
18 granted voluntary departure by an Immigration Judge ("IJ"), with an alternative order of removal to
19 Saudi Arabia, which went into effect when he failed to depart. Mr. El-Ghazaly appealed the IJ's
20 decision to the Board of Immigration Appeals but, because his former counsel failed to file a brief,
21 the appeal was dismissed on January 4, 1999. On March 9, 1999, the former Immigration and
22 Naturalization Service ("INS") issued a warrant of deportation; Mr. El-Ghazaly has a final order of
23 deportation.²
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27 ² The INS was dissolved in March 2003 pursuant to the Homeland Security Act of 2002, Pub. L.
28 No. 107-296, 116 Stat. 2135. Its functions were transferred to the newly created Department of
Homeland Security (DHS), with immigration-related responsibilities divided primarily among

1 21. On October 16, 2001, Mr. El-Ghazaly was indicted for violation of 18 U.S.C. § 922(g)(5).
2 He was subsequently released on a \$50,000 bail but taken into INS custody due to his final order of
3 removal. On information and belief, the charge against Mr. El-Ghazaly was dismissed and he does
4 not have any convictions.

5 22. Mr. El-Ghazaly was taken into INS custody on April 18, 2002, which began the 90-day
6 removal period under 8 U.S.C. 1231(a)(1)(A), subjecting Mr. El-Ghazaly to mandatory detention.

7 23. Saudi Arabia, Egypt, Israel, Jordan, and Palestine were unwilling to accept him for
8 deportation. Since those countries do not recognize Mr. El-Ghazaly as a citizen, nor will issue a
9 passport to him, Mr. El-Ghazaly is a stateless Palestinian without a travel document. Despite his
10 cooperation in attempting to obtain a travel document, neither Mr. El-Ghazaly nor ICE have been
11 successful.
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13 24. On July 27, 2002, the Federal Public Defender's Office filed a petition for writ of
14 habeas corpus with the U.S. District Court for the Northern District of California, seeking to compel
15 Mr. El-Ghazaly's release under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
16

17 25. On or around August 23, 2002, Mr. El-Ghazaly was released from ICE custody pursuant to
18 the posting of a \$25,000 bond. Upon his release, he was issued an Order of Supervision, with which
19 he has been complying for the past 23 years.
20

21 26. On September 23, 2002, the District Court dismissed Mr. El-Ghazaly's habeas petition,
22 as he had been released from INS custody.

23 27. On October 29, 2009, Mr. El-Ghazaly married his U.S. citizen spouse, who filed a
24 Form I-130, Petition for Alien Relative on his behalf; that petition was approved on February 25,
25 2015. On March 30, 2003, Mr. El-Ghazaly filed a motion to reopen his deportation proceedings in
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27 U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement
28 (ICE), and Customs and Border Protection (CBP).

1 order allow him to adjust his status to that of a lawful permanent resident based on his approved
2 petition and to reapply for asylum on the basis of worsening country conditions in Gaza.

3 28. On October 14, 2025, Mr. El-Ghazaly appeared for a routine ICE check-in appointment in
4 Dallas, Texas. At that time, he was taken into custody and transferred to the California City
5 Detention Facility. His former attorney promptly filed an emergency motion for a stay of deportation
6 with the Board, where his 2023 motion to reopen remained pending. Rather than rule on his motion
7 for a stay of removal, the Board issued a decision on October 20, 2025 denying his motion to reopen
8 and ordering him removed from the U.S.
9

10 29. For the last twenty-five years, Mr. El-Ghazaly has been living his life in the U.S.,
11 checking in with ICE monthly and then yearly. He is married to a U.S. citizen and has four U.S.
12 citizen children, two of whom are minors. He is the sole financial supporter for his wife and two
13 minor children.
14

15 30. On November 18, 2025, undersigned counsel entered her appearance as counsel for Mr. El-
16 Ghazaly via the ICE Enforcement and Removal Operations online system.³ On Friday, November
17 21, 2025, undersigned counsel spoke to Mr. El-Ghazaly for the first time and learned that he has
18 been (and continues to be) in isolation at the detention center because he contracted COVID in
19 custody.
20

21 31. Upon information and belief, Mr. El-Ghazaly did not receive a Revocation of Release to
22 from ICE, nor was his bond cancelled, nor was he informed that he had somehow violated the terms
23 of his release. Instead, he was told that ICE would be *attempting* to obtain a travel document on his
24 behalf.

25 32. Based on current ICE practices, Mr. El-Ghazaly is also at risk of being unlawfully
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27 ³ <https://www.ice.gov/eroefile>
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1 removed to a third, random, country without constitutionally adequate notice and a meaningful
2 opportunity to apply for protection under the Convention Against Torture, in violation of the INA,
3 binding international treaty, and due process. Currently, DHS has a policy of removing or seeking to
4 remove individuals to third countries without first providing adequate notice of third country
5 removal, or any meaningful opportunity to contest that removal if the individual has a fear of
6 persecution or torture in that country. *See* LB Decl. at Exh. A (*DHS Policy Regarding Third Country*
7 *Removal*). To date, ICE has not notified Mr. El-Ghazaly nor his counsel to which country ICE has
8 determined that he can be removed from the United States.
9

10 LEGAL BACKGROUND

11 **Right to a Hearing Prior to Re-incarceration**

12 33. Following a final order of removal, ICE is directed by statute to detain an individual for
13 ninety (90) days in order to effectuate removal. 8 U.S.C. § 1231(a)(2). This 90-day period, also
14 known as “the removal period,” generally commences as soon as a removal order becomes
15 administratively final. 8 U.S.C. §§ 1231(a)(1)(A) & (B).
16

17 34. If ICE fails to remove an individual during the ninety (90) day removal period, the
18 law requires ICE to release the individual under conditions of supervision, including periodic
19 reporting. 8 U.S.C. § 1231(a)(3) (“If the alien . . . is not removed within the removal period, the
20 alien, pending removal, shall be subject to supervision.”). Limited exceptions to this rule exist.
21 Specifically, ICE “may” detain an individual beyond ninety days if the individual was ordered
22 removed on criminal grounds or is determined to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6).
23 However, ICE’s authority to detain an individual beyond the removal period under such
24 circumstances is not boundless. Rather, it is constrained by the constitutional requirement that
25 detention “bear a reasonable relationship to the purpose for which the individual [was] committed.”
26 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Because the principal purpose of the post-final-order
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1 detention statute is to effectuate removal, detention bears no reasonable relation to its purpose if
2 removal cannot be effectuated. *Id.* at 697.

3 35. Post-final order detention is only authorized for a “period reasonably necessary
4 to secure removal,” a period that the Court determined to be presumptively six months. *Id.* at 699-
5 701. After this six (6) month period, if a detainee provides “good reason” to believe that her removal
6 is not significantly likely in the reasonably foreseeable future, “the Government must respond with
7 evidence sufficient to rebut that showing.” *Id.* at 701. If the government cannot do so, the individual
8 must be released. That said, detainees are entitled to release even before six months of detention, as
9 long as removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1) (authorizing release after
10 ninety days where removal not reasonably foreseeable). Moreover, as the period of post-final-order
11 detention grows, what counts as “reasonably foreseeable” must conversely shrink. *Zadvydas* at 701.
12

13 36. Even where detention meets the *Zadvydas* standard for reasonable foreseeability,
14 detention violates the Due Process Clause unless it is “reasonably related” to the government’s
15 purpose, which is to prevent danger or flight risk. *See Zadvydas*, 533 U.S. at 700 (“[I]f removal is
16 reasonably foreseeable, the habeas court should consider the risk of the alien’s committing further
17 crimes as a factor potentially justifying confinement within that reasonable removal period”)
18 (emphasis added); *Id.* at 699 (purpose of detention is “assuring the alien’s presence at the moment of
19 removal”); *Id.* at 690-91 (discussing twin justifications of detention as preventing flight and
20 protecting the community). Thus, Mr. El-Ghazaly must be released from custody because he does
21 not pose a danger or flight risk that warrants post-final-order detention, regardless of whether his
22 removal can be effectuated within a reasonable period of time.
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25 37. The government’s own regulations contemplate this requirement. They dictate that even after
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1 ICE determines that removal is reasonably foreseeable – and that detention therefore does not per se
2 exceed statutory authority – the government must still determine whether continued detention is
3 warranted based on flight risk or danger. *See* 8 C.F.R. § 241.13(g)(2) (providing that where removal
4 is reasonably foreseeable, “detention will continue to be governed under the established standards”
5 in 8 C.F.R. § 241.4). In this case, nothing has changed. Mr. El-Ghazaly was released on an OSUP
6 and \$25,000 bond in August 2002. He has no new arrests or convictions and, to the best of counsel’s
7 knowledge, ICE does not have a travel document to which to remove him from the U.S. Even if ICE
8 is working on obtaining a travel document, there is no reason the agency cannot do so while Mr. El-
9 Ghazaly is free from custody on his OSUP.
10

11 38. The regulations at 8 C.F.R. § 241.4 set forth the custody review process that existed
12 even before *Zadydas*. This mandated process, known as the post-order custody review, requires ICE
13 to conduct “90-day custody reviews” prior to expiration of the ninety-day removal period and to
14 consider release of individuals who pose no danger or flight risk. 8 C.F.R. § 241.4(e)-(f). Among the
15 factors to be considered in these custody reviews are “ties to the United States such as the number of
16 close relatives residing here lawfully”; whether the noncitizen “is a significant flight risk”; and “any
17 other information that is probative of whether” the noncitizen is likely to “adjust to life in a
18 community,” “engage in future acts of violence,” “engage in future criminal activity,” pose a danger
19 to themselves or others, or “violate the conditions of his or her release from immigration custody
20 pending removal from the United States.” *Id.* 51. Individuals with final orders who are released after
21 a post-order custody review are subject to Forms I-220B, OSUP. 8 C.F.R. § 241.4(j). After an
22 individual has been released on an OSUP and bond, as Mr. El-Ghazaly has, ICE cannot revoke such
23 an order without cause or adequate legal process. 8 C.F.R. § 241.13(i)(2)-(3).
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26 **Mr. El-Ghazaly’s Protected Liberty Interest in His Release**
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1 39. Mr. El-Ghazaly's liberty from immigration custody is protected by the Due Process
2 Clause: "Freedom from imprisonment – government custody, detention, or other forms of physical
3 restraint – lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas, supra*,
4 533 U.S. at 690.

5 40. For more than 23 years, Mr. El-Ghazaly has exercised that freedom under his OSUP.
6 He thus retains a weighty liberty interest under the Due Process Clause of the Fifth Amendment in
7 avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*,
8 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972). Moreover, the
9 Supreme Court has recognized that post-removal order detention is potentially indefinite and thus
10 unconstitutional without some limitation. *Zadvydas*, 533 U.S. at 701. In this case, in the absence of
11 actually obtaining a travel document from a country that will accept Mr. El-Ghazaly, his removal is
12 not foreseeable at all, let alone reasonably. *See Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal.
13 July 16, 2025) ("Respondents have not provided any details about why a travel document could not
14 be obtained in the past, nor have they attempted to show why obtaining a travel document is more
15 likely this time around."); *Liu v. Carter*, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025) (finding
16 that the respondents had not shown that removal was reasonably foreseeable where they did not
17 provide evidence why seeking travel documentation was more likely to be successful this time
18 around or describe other actions taken to make the petitioner's removal more likely). Therefore, re-
19 detention is unconstitutional.

20 41. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee
21 has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions of
22 his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to
23 form the other enduring attachments of normal life." *Id.* at 482. The Court further noted that "the
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1 parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up
2 to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although
3 indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a
4 grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is
5 valuable and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at
6 482.
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8 42. This basic principle – individuals have a liberty interest in their release – has been
9 reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g.,*
10 *Young, supra*, 520 U.S. at 152 (holding that individuals placed in a pre-parole program created to
11 reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process);
12 *Gagnon, supra*, 411 U.S. at 781-82 (holding that individuals released on felony probation have a
13 protected liberty interest requiring pre-deprivation process). As the First Circuit has explained, when
14 analyzing the issue of whether a specific conditional release rises to the level of a protected liberty
15 interest, “[c]ourts have resolved the issue by comparing the specific conditional release in the case
16 before them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-Fuentes v.*
17 *Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also,*
18 *e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free
19 of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that
20 entitles him to constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at
21 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).
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23 43. Here, when this Court “‘compar[es] the specific conditional release in [Mr. El-Ghazaly’s
24 case], with the liberty interest in parole as characterized by *Morrissey*,” it is clear that they are
25 strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, Mr. El-Ghazaly’s
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1 release “enables [him] to do a wide range of things open to persons” who have never been in
2 custody, including to live at home, work with her community, and “be with family and friends and to
3 form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

4 44. Since his release on an OSUP, Mr. El-Ghazaly has built a family – he is married to a U.S.
5 citizen, has four U.S. citizen children, including two minors, and is the sole financial supporter for
6 his wife and the youngest two children.
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8 **Mr. El-Ghazaly’s Liberty Interest Mandates a Due Process Hearing Before any Detention**

9 45. Mr. El-Ghazaly asserts that, here, (1) where his detention is civil, (2) where he has
10 been at liberty for more 23 years, during which time he has complied with all conditions, (3) where
11 he has diligently complied with ICE’s reporting requirements on a regular basis, (4) where no
12 change in circumstances exist that would justify his detention, and (5) where the only circumstance
13 that has changed is not related to Mr. El-Ghazaly, but is ICE’s move to arrest as many people as
14 possible because of the new administration, due process mandates that she receive notice and a
15 hearing before a neutral adjudicator *prior* to any arrest or detention. Several federal district courts
16 have already ordered similar relief. *See Rodriguez Diaz v. Kaiser, et al* 2025 WL 1676854 (N.D. Cal.
17 June 14, 2025)), *Yan-Ling x. v. Lyons*, 2025 WL 3123793 (E.D. Cal. Nov. 7, 2025); *Yang v. Kaiser*,
18 2025 WL 2791778 (E.D. Cal. Aug. 20, 2025); *Phan v. Beccerra*, 2025 WL 1993735 (E.D. Cal. July
19 16, 2025); *Hoac v. Beccerra*, 2025 WL 1993771 (E.D. Cal. July 16, 2025).
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22 46. “Adequate, or due, process depends upon the nature of the interest affected. The
23 more important the interest and the greater the effect of its impairment, the greater the procedural
24 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d
25 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must
26 “balance [Mr. El-Ghazaly’s] liberty interest against the [government’s] interest in the efficient
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1 administration of” its immigration laws in order to determine what process she is owed to ensure that
2 ICE does not unconstitutionally deprive her of her liberty. *Id.* at 1357. Under the test set forth in
3 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), this Court must consider three factors in conducting
4 its balancing test: “first, the private interest that will be affected by the official action; second, the
5 risk of an erroneous deprivation of such interest through the procedures used, and the probative
6 value, if any, of additional or substitute procedural safeguards; and finally the government’s interest,
7 including the function involved and the fiscal and administrative burdens that the additional or
8 substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews*, 424
9 U.S. at 335).

11 47. The Supreme Court “usually has held that the Constitution requires some kind of a
12 hearing *before* the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113,
13 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies are “the
14 only remedies the State could be expected to provide” can post-deprivation process satisfy the
15 requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where “one of the variables
16 in the *Mathews* equation – the value of predeprivation safeguards – is negligible in preventing the
17 kind of deprivation at issue” such that “the State cannot be required constitutionally to do the
18 impossible by providing predeprivation process,” can the government avoid providing pre-
19 deprivation process. *Id.*

21 48. Because, in this case, the provision of a pre-deprivation hearing is both possible and
22 valuable to preventing an erroneous deprivation of liberty, ICE was required to provide Mr. El-
23 Ghazaly with notice and a hearing prior to any incarceration and revocation of her OSUP. *See*
24 *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*,
25 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744
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1 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment
2 proceedings may not constitutionally be held in jail pending the determination as to whether they can
3 ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in favor of [Mr. El-
4 Ghazaly’s] liberty” and requires a pre-deprivation hearing before a neutral adjudicator.

5 **Mr. El-Ghazaly’s Private Interest in His Liberty is Profound**

6 49. Under *Morrissey* and its progeny, individuals conditionally released from serving
7 criminal sentences have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition,
8 the principles espoused in *Hurd* and *Johnson* – that a person who is in fact free of physical
9 confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to
10 constitutional due process before he is re-incarcerated – apply with even greater force to individuals
11 like Mr. El-Ghazaly, who have also been after released on an OSUP in lieu of ICE custody. Even in
12 the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due
13 process hearing in which they can raise any claims they may have regarding why their re-
14 incarceration would be unlawful. See *Gonzalez-Fuentes*, 607 F.3d 864 at 891-892; *Hurd*, 864 F.3d at
15 683. Thus, Mr. El-Ghazaly retains a truly weighty liberty interest even though she is under
16 conditional release. What is at stake in this case for Mr. El-Ghazaly is one of the most profound
17 individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior
18 release decision and be able to take away her physical freedom, i.e., his “constitutionally protected
19 interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)
20 (internal quotation omitted). “Freedom from bodily restraint has always been at the core of the
21 liberty protected by the Due Process Clause.” *Foucha*, *supra*, 504 U.S. at 80. See also *Zadvydas*, 533
22 U.S. at 690 (“Freedom from imprisonment – from government custody, detention, or other forms of
23 physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects.”); *Cooper v.*
24 *Oklahoma*, 517 U.S. 348 (1996).

1 50. Thus, it is clear that there is a profound private interest at stake in this case, which
2 must be weighed heavily when determining what process he is owed under the Constitution. *See*
3 *Mathews*, 424 U.S. at 334-35.

4 **The Government's Interest in Incarcerating Mr. El-Ghazaly Without a Hearing is Low and**
5 **the Burden on the Government to Release Him from Custody is Minimal**

6 51. The government's interest in keeping Mr. El-Ghazaly in detention without a due process
7 hearing is low, and when weighed against Petitioner's significant private interest in his liberty, the
8 scale tips sharply in favor of releasing Petitioner from custody unless and until the government
9 demonstrates that he is a flight risk or danger to the community. Providing Mr. El-Ghazaly with a
10 hearing before this Court (or a neutral adjudicator) to determine whether there is evidence that he is
11 a flight risk or danger to the community would impose only a *de minimis* burden on the government,
12 because the government routinely conducts these reviews for individuals in Petitioner's same
13 circumstances. 8 C.F.R. §§ 241.4(e)-(f).

15 52. As immigration detention is civil, it can have no punitive purpose. The government's
16 only interests in holding an individual in immigration detention can be to prevent danger to the
17 community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533
18 U.S. at 690. Moreover, the Supreme Court has made clear that indefinite detention of noncitizens
19 who cannot be removed to the country of the removal order, is unconstitutional.

21 53. Mr. El-Ghazaly has continued to appear before ICE on an annual basis for each and every
22 OSUP appointment that has been scheduled. *See Morrissey*, 408 U.S. at 482 ("It is not sophistic to
23 attach greater importance to a person's justifiable reliance in maintaining his conditional freedom so
24 long as he abides by the conditions on his release, than to his mere anticipation or hope of
25 freedom") (quoting *United States ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086
26 (2d Cir. 1971)).
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Without Release from Custody until the Government Provides a Due Process Hearing, the Risk of an Erroneous Deprivation of Liberty is High

54. Releasing Mr. El-Ghazaly from custody until he is provided a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Mr. El-Ghazaly can be lawfully detained, he must be provided with a hearing before a neutral decisionmaker, at which the government is held to show that his detention will not be indefinite, or that the circumstances have changed since his release in 2002 such that evidence exists to establish that Mr. El-Ghazaly is a danger to the community or a flight risk.

55. Under the process that ICE maintains is lawful – which affords Mr. El-Ghazaly no process whatsoever – ICE can simply re-detain him at any point if the agency desires to do so, as ICE did on October 14, 2025. Mr. El-Ghazaly has already been erroneously deprived of his liberty when he was released on bond and placed on an OSUP twenty-three years ago, and the risk that he will continue to be deprived is high if ICE is permitted to keep him in detention after making a unilateral decision to detain him. Pursuant to 8 C.F.R. § 241.4(l), revocation of release on an OSUP is at the discretion of the Executive Associate Commissioner. After re-arrest, ICE makes its own, one-sided custody determination and can decide whether the agency wants to hold Mr. El-Ghazaly. 8 C.F.R. § 241.4(e)-(f). 74. By contrast, the procedure Mr. El-Ghazaly seeks – release from custody and no further re-detention until he is provided a hearing in front of neutral decisionmaker at which the government must show that his detention will not be indefinite, or otherwise that the circumstances have changed since his release in 2002 to justify his detention – is much more likely to produce accurate determinations regarding these factual disputes. *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.1989) (when “delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement” are at issue, the “risk of error is considerable when just determinations are made after hearing only one side”). “A neutral judge is one of the most

1 basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001),
2 abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth
3 Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased
4 where a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v.*
5 *Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

6
7 56. Due process also requires consideration of alternatives to detention at any custody
8 redetermination hearing that may occur. The primary purpose of immigration detention is to ensure
9 removal if reasonably foreseeable. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to
10 this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives to detention –
11 including ordering his immediate release under his existing OSUP, with which he has been
12 complying for more than two decades – must be considered in determining whether Mr. El-
13 Ghazaly’s re-incarceration is warranted.

14 **Right to Constitutionally Adequate Procedures Prior to Third Country Removal**

15
16 57. Under the INA, Respondents-Defendants have a clear and non-discretionary duty to
17 execute final orders of removal only to the designated countries of removal. The statute explicitly
18 states that a noncitizen “shall remove the [noncitizen] to the country the [noncitizen] . . . designates.”
19 8 U.S.C. § 1231(b)(2)(A)(ii). And even where a noncitizen does not designate the country of
20 removal, the statute further mandates that ICE “shall remove the alien to a country of which the alien
21 is a subject, national, or citizen. *See id.*; 8 U.S.C. § 1231(b)(2)(D); *see also generally Jama v. ICE*,
22 543 U.S. 335, 341 (2005).

23
24 58. As the Supreme Court has explained, such language “generally indicates a
25 command that admits of no discretion on the part of the person instructed to carry out the directive,”
26 *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass’n of*
27 *Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); *see also*
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1 *Black's Law Dictionary* (11th ed. 2019) ("Shall" means "[h]as a duty to; more broadly, is required to
2 This is the mandatory sense that drafters typically intend and that courts typically uphold.");
3 *United States v. Monsanto*, 491 U.S. 600, 607 (1989) (finding that "shall" language in a statute was
4 unambiguously mandatory). Accordingly, any imminent third country removal fails to comport with
5 the statutory obligations set forth by Congress in the INA and is unlawful.
6

7 59. Moreover, prior to any third country removal, ICE must provide Mr. El-Ghazaly with
8 sufficient notice and an opportunity to respond and apply for fear-based relief as to that country, in
9 compliance with the INA, due process, and the binding international treaty: The Convention Against
10 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Currently, ICE has a
11 policy of removing or seeking to remove individuals to third countries without first providing
12 constitutionally adequate notice of third country removal, or any meaningful opportunity to contest
13 that removal if the individual has a fear of persecution or torture in that country. Exh. A (*DHS Policy*
14 *Regarding Third Country Removal*). This policy clearly violates due process and the United States'
15 obligations under the Convention Against Torture.
16

17 60. The U.S. District Court for the District of Massachusetts previously issued a nationwide
18 preliminary injunction blocking such third country removals without notice and a meaningful
19 opportunity to apply for relief under the Convention Against Torture, in recognition that the
20 government's policy violates due process and the United States' obligations under the Convention
21 Against Torture. *D.V.D., et al. v. U.S. Department of Homeland Security, et al.*, No. 25-10676-BEM
22 (D. Mass. Apr. 18, 2025). The U.S. Supreme Court has since granted the government's motion to
23 stay the injunction on June 23, 2025, just before the Court published *Trump v. Casa*, No. 24A884
24 (June 27, 2025) limiting nationwide injunctions. Thus, the Supreme Court's order, which is not
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1 accompanied by an opinion, signals only disagreement with nature, and not the substance, of the
2 nationwide preliminary injunction.

3 61. It is clear that if Mr. El-Ghazaly were to be removed to any third country, it would violate his
4 due process rights unless he is first provided with constitutionally adequate notice and a meaningful
5 opportunity to apply for protection under the Convention Against Torture. In the absence of any
6 other injunction, intervention by this Court is necessary to protect those rights.
7

8 **FIRST CAUSE OF ACTION**

9 **Violation of the Fifth Amendment to the United States Constitution**
10 **(Procedural Due Process—Re-Detention)**

11 62. Mr. El-Ghazaly re-alleges and incorporates herein by reference, as is set forth fully herein,
12 the allegations in all the preceding paragraphs.

13 63. The Due Process Clause of the Fifth Amendment forbids the government from depriving
14 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

15 64. Mr. El-Ghazaly was previously released by Respondents-Defendants because his removal
16 was not reasonably foreseeable and he did not pose a danger or flight risk. As long as he complies
17 with the conditions of his release, Respondents-Defendants have authority to revoke release only if
18 circumstances have changed. 8 C.F.R. § 241.13(i)(2); 8 C.F.R. § 1231(a)(6).
19

20 65. Respondents’ actions are arbitrary, capricious, an abuse of discretion, and contrary to law. 5
21 U.S.C. § 706(a)(2)(A). The fact that a decision-making process involves discretion does not prevent
22 an individual from having a protectable liberty interest. *Young v. Harper*, 520 U.S. 143, 150 (1997);
23 *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1001 (N.D. Cal 2018) (Corley, J.). Just like people
24 on pre-parole, parole, probation status, bail, or bond have a liberty interest, so too does Petitioner
25 have a liberty interest in remaining out of custody on an Order of Supervision. *Ortega v. Bonnar*,
26 415 F. Supp. 3d 963, 2019 WL 6251231 (N.D. Cal. 2019). He should therefore be immediately
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1 released or, at a minimum, provided a full and fair hearing before a neutral adjudicator, where the
2 government bears the burden of showing that circumstances have changed such that his removal is
3 reasonably foreseeable, or otherwise evidence of her dangerousness and flight risk. *Id.*

4
5 **SECOND CAUSE OF ACTION**

6 **Violation of the Fifth Amendment to the United States Constitution**
7 **(Procedural Due Process - Unconstitutionally Inadequate**
8 **Procedures Regarding Third Country Removal)**

9 66. Mr. El-Ghazaly re-alleges and incorporates herein by reference, as if set forth fully herein,
10 the allegations in all the preceding paragraphs.

11 67. The Due Process Clause of the Fifth Amendment requires sufficient notice and an
12 opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see*
13 *also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F.Supp. 1243, 1252 (E.D.
14 Cal. 1994) (“[D]ue process requires that government action falling within the clause's mandate may
15 only be taken where there is notice and an opportunity for hearing.”).

16 68. Mr. El-Ghazaly has a protected interest in his life. Thus, prior to any third country removal,
17 Mr. El-Ghazaly must be provided with constitutionally-compliant notice and an opportunity to
18 respond and contest that removal if he has a fear of persecution or torture in that country.

19 69. For these reasons, Mr. El-Ghazaly's removal to any third country without adequate notice
20 and an opportunity to apply for relief under the Convention Against Torture would violate his due
21 process rights. The only remedy of this violation is for this Court to order that he not be summarily
22 removed to any third country unless and until he is provided constitutionally adequate procedures.

23 **THIRD CAUSE OF ACTION**

24 **Violation of the INA and Applicable Regulations**

25 70. Mr. El-Ghazaly re-alleges and incorporates herein by reference, as is set forth fully herein,
26 the allegations in all the preceding paragraphs.

1 71. The INA provides for detention during the ninety (90) day “removal period” that begins
2 immediately after a noncitizen’s order of removal becomes final. 8 U.S.C. § 1231(a)(1). After the
3 90-day removal period, the INA and its applicable regulations provide that detaining noncitizens is
4 generally permissible only upon notice to the noncitizen and after an individualized determination of
5 dangerousness and flight risk. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. §§ 241.4(d), (f), (h) & (k).
6

7 72. Respondent-Defendants are not permitted to detain Mr. El-Ghazaly on the basis of his prior
8 bond and order of removal without any determination of whether circumstances have changed such
9 that his removal is reasonably foreseeable, and a determination of his danger and flight risk, by a
10 neutral adjudicator. This is especially true where, as here, where the government previously
11 determined that Mr. El-Ghazaly’s removal was *not* reasonably foreseeable and thus were required to
12 release him – the very reason he has been out of custody in the first place. 8 C.F.R. §§ 241.13(i)(2)-
13 (3).
14

15 **FOURTH CAUSE OF ACTION**
16 **Procedural Due Process – Unconstitutionally Indefinite Detention**
17 **U.S. Const. amend. V**

18 73. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the
19 allegations in all the preceding paragraphs.

20 74. The Due Process Clause of the Fifth Amendment forbids the government from
21 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

22 75. Other than as punishment for a crime, due process permits the government to take
23 away liberty only “in certain special and narrow nonpunitive circumstances ... where a special
24 justification ... outweighs the individual’s constitutionally protected interest in avoiding physical
25 restraint.” *Zadvydas*, 533 U.S. 678, 690. Such special justification exists only where a restraint on
26 liberty bears a “reasonable relation” to permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738
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1 (1972); *see also Foucha v. Louisiana*, 504 U.S. 71, 79 (1992). In the immigration context, those
2 purposes are “ensuring the appearance of [noncitizens] at future immigration proceedings and
3 preventing danger to the community.” *Zadvydas*, 533 U.S. at 690 (quotations omitted).

4 76. Those substantive limitations on detention are closely intertwined with procedural
5 due process protections. *Foucha*, 504 U.S. 78-80. Noncitizens have a right to adequate procedures to
6 determine whether their detention in fact serves the purposes of ensuring their appearance or
7 protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S. at 692; *Casas-Castrillon v. Dep’t of*
8 *Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008). Where laws and regulations fail to provide such
9 procedures, the habeas court may assess whether the noncitizen’s immigration detention is
10 reasonably related to the purposes of ensuring her appearance or protecting the community,
11 *Zadvydas*, 533 U.S. at 699, or require release.

12 77. Because Mr. El-Ghazaly’s detention is unconstitutionally indefinite, it is unlawful.
13
14 Moreover, because Mr. El-Ghazaly faces detention without any meaningful determination of
15 whether circumstances have changed such that her removal is reasonably foreseeable, and whether
16 he poses a danger or flight risk, his detention violates due process.

17 78. Mr. El-Ghazaly’s detention is unconstitutionally indefinite because he cannot be removed.
18
19 Thus, his removal is not reasonably foreseeable, and the government has not provided him with
20 notice, evidence, or an opportunity to be heard on this issue before arbitrarily detaining him. His
21 continued detention without any reasonably foreseeable end point is thus unconstitutionally
22 prolonged in violation of clear Supreme Court precedent. *Zadvydas*, 533 U.S. at 701.

23 79. Moreover, because Mr. El-Ghazaly poses no danger or flight risk, his detention was, and
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1 is, not reasonably related to its purposes, and is unlawful. Moreover, because Mr. El-Ghazaly faces
2 detention without any meaningful determination of danger or flight risk, his detention violates due
3 process.

4 80. Further, because he was not provided with a hearing prior to her detention, and his
5 continuing unlawful and constitutionally indefinite detention without adequate process is an ongoing
6 violation of his due process rights, the only remedy of this violation is his immediate release from
7 immigration detention, as well as a future hearing prior to any re-detention where Respondents must
8 prove that his detention is not unlawful.
9

10 **FIFTH CAUSE OF ACTION**

11 **Procedural Due Process – Unconstitutionally Inadequate Procedures**
12 **Regarding Third Country Removal**
U.S. Const. amend. V

13 81. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the
14 allegations in all the preceding paragraphs.

15 82. The Due Process Clause of the Fifth Amendment requires sufficient notice and an
16 opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see*
17 *also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F.Supp. 1243, 1252 (E.D.
18 Cal. 1994) (“[D]ue process requires that government action falling within the clause's mandate may
19 only be taken where there is notice and an opportunity for hearing.”).
20

21 83. Mr. El-Ghazaly a protected interest in his life. Thus, prior to any third country removal,
22 he must be provided with constitutionally-compliant notice and an opportunity to respond and
23 contest that removal if he has a fear of persecution or torture in that country.
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25 84. For these reasons, Mr. El-Ghazaly’s removal to any third country without adequate notice
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1 and an opportunity to apply for relief under the Convention Against Torture would violate his due
2 process rights. The only remedy of this violation is for this Court to order that she not be summarily
3 removed to any third country unless and until he is provided constitutionally adequate procedures.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Mr. El-Ghazaly prays that this Court grant the following relief:

- 6
- 7 (1) Assume jurisdiction over this matter;
- 8 (2) Order that Petitioner's detention is unlawful in violation of *Zadvydas* because his
- 9 removal is not reasonably foreseeable;
- 10 (3) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. §
- 11 241.13(i)(2) because there are no changed circumstances showing that there is a
- 12 significant likelihood that he may be removed in the reasonably foreseeable
- 13 future;
- 14 (4) Order the *immediate* release of Petitioner from custody because his detention is
- 15 not reasonably foreseeable in violation of *Zadvydas*;
- 16 (5) Order the immediate release of Petitioner from custody because his detention is
- 17 unlawful in violation of 8 C.F.R. § 241.13(i)(2);
- 18 (6) Order the immediate release of Petitioner from custody on any other basis that
- 19 this Court finds proper;
- 20 (7) Order that Petitioner cannot be removed to any third country without first being
- 21 provided constitutionally-compliant procedures, including:
- 22
- 23 a. Written notice to Petitioner and counsel of the third country to which he
- 24 may be removed, in a language that Petitioner can understand, provided at
- 25 least 21 days before any such removal;
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1 b. A meaningful opportunity for Petitioner to raise a fear of return for
2 eligibility for protection under the Convention Against Torture, including
3 a reasonable fear interview before an asylum officer;

4 c. If Petitioner demonstrates a reasonable fear during the interview, ICE
5 must move to reopen his underlying removal proceedings so that he may
6 apply for relief under the Convention Against Torture;

7 d. If it is found that Petitioner does not demonstrate a reasonable fear
8 during the interview, a meaningful opportunity, and a minimum of 15
9 days, for Petitioner to seek to move to reopen his underlying removal
10 proceedings to challenge potential third-country removal;
11

12 (8) Award reasonable costs and attorney fees; and

13 (9) Grant such further relief as the Court deems just and proper.
14

15 Dated: November 21, 2025

Respectfully submitted,

16 /s/ Lina Baroudi

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner-Plaintiff because I am the Petitioner-Plaintiff's attorney. I have discussed with the Petitioner-Plaintiff the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on November 21, 2025, in San José, California.

/s/ Lina Baroudi

Lina Baroudi
Attorney for Petitioner-Plaintiff
Azmy Abdelraauf El-Ghazaly